



COMMONWEALTH OF MASSACHUSETTS  
**Board of Registration  
of  
Hazardous Waste Site Cleanup Professionals**

**MINUTES  
of  
BOARD MEETING**

Held on  
**April 14, 2009**

Meeting Location: Weston & Sampson Engineers, Inc.  
5 Centennial Drive  
Peabody, Mass.

Prepared by: A. Fierce

[Approved: May 27, 2009]

1. **Call to Order:** Acting Chairperson Kelley Race called the meeting to order at 3:22 p.m. The other Board members present were Deborah Farnsworth, Kirk Franklin, Jack Guswa, Christophe Henry, and Robert Luhrs. Ms. Commerford arrived after the meeting was underway. Gail Batchelder, Gretchen Latowsky, and Debra Stake were absent. The LSP Board staff members present were Allan Fierce, Lynn Read, Brian Quinlan, Terry Wood, and Al Wyman. Also present was Wesley Stimpson of the LSP Association.
2. **Announcements:** Mr. Luhrs announced that he needed to leave the meeting in about 20 minutes to catch a plane. Because his departure would mean the loss of a quorum, the Board agreed to table any non-essential business.
3. **Agenda:** The Board members agreed to follow the draft agenda.
4. **LSPA's Request for Board Staff Assistance at an LSPA-Sponsored Workshop for Prospective Applicants:** At the conclusion of discussion of this topic at the previous meeting, it was the consensus of the Board that while it would be willing to work with the LSPA on this workshop, the Board would like the LSPA to clarify its request for staff participation by putting it in writing and describing more clearly what the content of the workshop would be and exactly what role the Board's staff would play and how much preparation time would be required of them.

Mr. Fierce reported that the LSPA's Matthew Hackman had responded to the Board's request by submitting the written description requested by the Board. Mr. Fierce said that he had placed this document in the Board members' Packets.

The Board members discussed the LSPA's written description of the workshop and its request for assistance from both Mr. Fierce and Mr. Quinlan. At the conclusion of discussion, **a motion was made and seconded to agree to allow Mr. Quinlan to assist the LSPA with this workshop in the manner set forth in Mr. Hackman's description. The motion was approved unanimously.**

5. **Minutes:** The Board reviewed the draft minutes of the meeting of the Board held on March 13, 2009. **A motion was made and seconded to approve the minutes as drafted, subject to a final review by Ms. Commerford. The motion was approved unanimously.**
6. **Reports from Quasi-Judicial Sessions:** Mr. Fierce requested and received the Board's unanimous consent to publish in the minutes of this meeting the following two reports from previous quasi-judicial sessions of the Board.

**Final Order Re: Complaint 05C-05**

At a quasi-judicial session held on March 27, 2008, the members of the Complaint Review Team for Complaint 05C-05 (Ms. Batchelder, Ms. Commerford, and Ms. Read) presented their CRT Report summarizing the findings of their preliminary investigation of this Complaint. During this presentation, the LSP's name was not disclosed.

The other members of the Board who were present were as follows: Ms. Farnsworth, Mr. Franklin, Mr. Henry, Ms. Latowsky, and Ms. Race. Mr. Luhrs was recused and left the room during the discussion of this matter. Mr. Mullen, Ms. Phillips, and Ms. Stake were absent. The Board's staff was also present. No one else was present.

At the conclusion of the CRT's presentation, the CRT members and Mr. Wyman, the staff investigator assisting the CRT, left the room. The five remaining Board members then discussed the CRT's Report. At the conclusion of the discussion, a motion was made and seconded to find that, based on the preliminary investigation, sufficient grounds existed to initiate disciplinary action against this LSP. The motion was approved by a vote of 4-1. Voting in favor of the motion were Ms. Farnsworth, Mr. Franklin, Mr. Henry, and Ms. Latowsky. Ms. Race voted against the motion.

The CRT's attorney was directed to serve the Respondent LSP with an Order To Show Cause unless an acceptable agreement for discipline could be reached.

Subsequently, at a quasi-judicial session held on September 18, 2008, the Board discussed a joint recommendation from the Respondent LSP and the CRT that the Board consider entering into an Administrative Consent Order ("ACO") in which the Respondent agrees to non-public discipline. The Board members present were Ms. Farnsworth, Mr. Franklin, Mr. Guswa, Mr. Henry, Ms. Race, and Ms. Stake. The CRT

members and the investigator were not in the room. After discussion, a motion was made and seconded to accept the joint recommendation. The motion carried by a vote of 6-0.

Thereafter, the Respondent LSP signed an ACO in which s/he agreed to non-public discipline. Acting on behalf of the Board, Mr. Henry signed the ACO on December 23, 2008.

Throughout these discussions, the Respondent LSP's name was kept confidential. Because this Complaint has been resolved with non-public discipline, the LSP's name is not being released to the public in this report.

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**Final Order Re: Complaint 08C-05**

At a quasi-judicial session held on March 13, 2009, the CRT members for Complaint 08C-05 (Ms. Batchelder, Mr. Henry, and Ms. Wood) presented their CRT Report summarizing the findings of their preliminary investigation of this Complaint. During this presentation, the LSP's name and other identifying information were not disclosed.

The other members of the Board who were present were as follows: Ms. Commerford, Ms. Farnsworth, Mr. Franklin, Mr. Guswa, Ms. Latowsky, Mr. Luhrs, Ms. Race, and Ms. Stake. No members were recused. The Board's staff was also present. No one else was in the room.

At the conclusion of the CRT's presentation, the CRT members and Mr. Quinlan, the staff investigator assisting the CRT, left the room.

The eight remaining Board members then discussed the CRT's Report. At the conclusion of the discussion, a motion was made and seconded (1) to find that, based on the preliminary investigation, sufficient grounds did not exist to initiate disciplinary action against this LSP and (2) to dismiss this Complaint. The motion was approved unanimously by a vote of 8-0.

The dismissal letter was sent on March 26, 2009.

Throughout this discussion, the Respondent LSP's name was kept confidential. Now that this matter has been concluded, the LSP's name – Anthony DelTufo – is being made public.

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7. **Decisions Regarding License Applicants:** The staff presented the following Application Docket:

Docket No. 1: The applicant's name, company name, application number, and Application Review Panel recommendation were read into the record:

		<u>App. No.</u>	<u>ARP</u>	<u>Rec.</u>
Patrick P. King	GEI Consultants, Inc.	#6230	222	A

Ms. Race was recused and left the room.

A motion was made and seconded that the Board accept the recommendation from Application Review Panel #222, i.e., that the application submitted by Mr. King be approved and that he be found eligible to take the exam. The motion was approved unanimously.

Ms. Race returned and rejoined the meeting.

**8. License Renewal Applications:**

**A. Renewal Dockets.** The staff presented the following License Renewal Docket:

**Renewal Docket #1**

**License Renewal**

Renewal Date: April 30, 2009

Have met all requirements for renewal.

New Renewal Date: April 30, 2012

1. Charles M. Castelluccio	#6301
2. Glenn S. Goral	#8762
3. James R. Greacen	#9985
4. Adam J. Last	#3904
5. Paul A. McKinlay	#9145
6. James M. O'Loughlin	#4994
7. Paul P. Ozarowski	#3195
8. Felix A. Perriello	#8110
9. Francis M. Ricciardi	#5586
10. Andrew M. Stead	#9347
11. Joel J. Trifilo	#4725
12. Scott E. VanderSea	#3978
13. Patrick O. Vargo	#2955

**A motion was made and seconded to renew to licenses of the LSPs on Renewal Docket #1 for a three-year period ending on the date indicated. The motion was approved unanimously.**

- B. Other Renewal-related Matters.** Mr. Fierce reported that no waiver requests had been received since the previous meeting, and there were no other renewal-related matters.

**9. Other Licensing-Related Matters:**

- A. New Panel Assignments and Scheduling.** The following Board members were assigned to Application Review Panel # 223:

Mr. Franklin, Mr. Guswa, and Ms. Race

- B. Appeals Status Report.** Ms. Wood reported that there are no pending appeals regarding the Board's denial of a license application.

- C. Inactive Status Report.** Mr. Fierce reported the following status changes in the past month:

- Charles Head (#9665), who was on Inactive Status, withdrew from the profession and surrendered his license on 4/6/09.
- On 4/6/09, Joel Lindsay (# 4361) was placed on Inactive Status at his request. With these status changes, there are currently 5 LSPs on Inactive Status.

- D. LSPs Who Have Voluntarily Withdrawn from Profession.** Mr. Fierce announced that the following Active LSPs have voluntarily withdrawn from the profession and surrendered their licenses on the dates indicated:

- Marc Slechta (#5082) at c.o.b. on 3/31/09
- Jeffrey Banikowski (#5977) at c.o.b. on 4/1/09

- E. LSP Whose License was Suspended for Non-Payment of Annual Fee.** The staff announced that on 4/14/09 Philip Marshall's license (#2868) was suspended for 90 days for non-payment of the Annual Fee. Prior to the expiration of 90 days, he may reinstate his license at any time by payment of the fee. Pursuant to 309 CMR 2.09, if he does not pay the fee within the 90-day suspension period, his license will be revoked.

- F. Total Number of Active and Inactive LSPs.** Mr. Fierce reported that the total number of Active LSPs as of the date of this meeting was 544.

- G. Revisions to Application Forms (Application Committee).** On behalf of the Committee, Mr. Henry reported that the Committee (1) was still soliciting comments on the draft Application questions and (2) was hoping to schedule a meeting before the next Board meeting.

**10. Examinations:**

- A. New Licensees.** The staff reported that the following approved applicants passed the licensing exam and are now LSPs:

	<u>Exam Date</u>
• Matthew Madden (#4948)	3/26/09
• Susan O'Brien (#9605)	3/26/09

- B. Next LSP Exam.** The staff reported that the next exam administration is scheduled for May 13, 2009.

- C. Status Report – PC-based Administration.** Mr. Fierce reported that the exam on 3/26/09 was administered electronically and went well. The issues previously encountered appear to have been addressed, he said.

**12. Continuing Education Committee Report:**

- A. Course and Conference Approval Requests.** Mr. Henry reported that the Committee had met earlier in the day and had the following course recommendations to present to the full Board:

Sponsor: Northeast Waste Management Officials Association (NEWMOA)

Course Title: Greener Cleanups: What Does It Mean and How Do You Do It?

Credits Requested: at least 4 Technical credits

Committee Recommendation: **Approve.** After evaluating the content in relation to the agenda, the Committee voted to recommend that this course be approved for 5.5 Technical non-DEP Credits.

Sponsor: LSP Association

Course Title: Vapor Intrusion for LSPs: Investigation, Sampling and Mitigation Techniques

Credits Requested: 8 Technical (non-DEP) credits

Committee Recommendation: **Approve.** This course had already been approved as LSP Board Course Number 1371 for 6 Technical (non-DEP) credits. The course provider requested, and the Committee voted to recommend, that the Board approve 2 additional hours for the presentation of additional content.

**A motion was made and seconded to accept the Committee's course recommendations. The motion was approved unanimously.**

- B. Other Business.** The Committee had no other business to report.

- 13. Professional Conduct Committee:** Since all the Board members present at this meeting were also present at the Professional Conduct Committee meeting held earlier in the day, the Board agreed to forego a Committee report.

- 14. Personnel, Budget, and Fees:**

**A. Budget.** Mr. Fierce announced that the House Ways & Means Committee was expected to release its proposed state budget for FY-2010 in the next day or two.

**B. Fees.** Mr. Fierce presented a memo containing the Board's Annual Fee payment regulation (§ 2.09) and the Petition for Waiver regulation (§ 2.12), and he asked the Board whether it wanted to interpret these regulations to allow LSPs who were experiencing economic hardship, perhaps due to a layoff, to pay the Annual Fee using an installment payment plan. It was the consensus of the Board that there was insufficient time to discuss this matter at this meeting and that it should be tabled for further discussion at a future meeting.

[At this point in the meeting, Ms. Commerford arrived.]

15. **Status of Board Member Replacements by Governor:** Ms. Commerford stated that she had no news to report since the previous meeting.
16. **Other Business:** The Board did not discuss any other business.
17. **Scheduling of Next Meeting:** The Board agreed to hold its next meeting on May 27, 2009. If space is available at Raytheon in Waltham, it will be held there. The following meeting will be held on June 25, 2009, at a location to be determined.
18. **Adjournment:** The meeting was adjourned at 3:41 p.m.